

AMENDED IN SENATE JULY 5, 2011

SENATE BILL

No. 196

**Introduced by ~~Senator Cannella~~ Senators Cannella, Berryhill,
Emmerson, and Harman**

February 8, 2011

~~An act to amend Section 434 of the Food and Agricultural Code, relating to state agriculture.~~ *An act to amend Sections 11346.1, 11346.2, 11346.3, 11346.5, 11346.9, 11349.1, 11351, 11352, and 11354.1 of, to add Sections 9145, 11342.547, 11346.31, 11349.75, and 11349.10 to, and to repeal Section 11353 of, the Government Code, and to amend Section 57005 of the Health and Safety Code, relating to regulations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 196, as amended, Cannella. ~~State agriculture: informational materials.~~ *Regulations: economic analysis and review.*

(1) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. The act requires that state agencies proposing to adopt, amend, or repeal any administrative regulation assess the potential for adverse economic impact on California business enterprises and individuals, as specified.

This bill would require the standardized economic assessment to consider additional factors, such as the benefits of the regulation and the extent to which it will achieve regulatory and statutory objectives. The bill would require agencies preparing the economic assessment to request a review of the assessment by the University of California, and to include any review by the university with the assessment. The bill would require the Department of Finance to adopt regulations, on or

before June 30, 2013, to guide agencies in conducting the standardized economic assessments, as specified.

This bill, commencing January 1, 2014, would make the standardized economic assessment requirements applicable only to a proposed regulation that the agency has concluded may have an economic impact of more than \$50,000,000.

(2) The act requires an agency that seeks to adopt a regulation to issue a notice of proposed action that contains prescribed information, including an informative digest that includes, among other things, a policy statement overview explaining the broad objectives of the regulation.

This bill would also require the policy statement to explain the specific benefits anticipated by the regulation and evaluate whether the proposed regulation is inconsistent or incompatible with existing regulations.

(3) The act requires an agency to prepare and submit to the office with an adopted regulation a final statement of reasons that includes, among other things, a determination that no alternative considered by the regulation would be more effective, or equally effective and less burdensome, than the regulation, and an explanation setting forth reasons for rejecting alternatives that would lessen the adverse economic impact of the regulation.

This bill would require this determination to be based, in part, on the economic impact assessment, if an assessment is required. The bill would also require that the economic impact assessment be included in the final statement of reasons as supporting information for an explanation for rejecting alternatives that would lessen the adverse economic impact of the regulation.

(4) The act establishes a procedure for a priority review of existing regulations by the office, pursuant to a request by specified committees of the Legislature, to determine if a regulation continues to meet prescribed standards.

This bill would authorize any interested person to petition an agency to perform an economic analysis on an existing regulation. The bill would require the agency to conduct the analysis, except in specified circumstances.

(5) The act requires the office to approve, or disapprove and return to the agency, all regulations adopted pursuant to the act using specified standards. The act requires the office to return a regulation to the agency in specified circumstances, including failure to comply with the requirement to assess the economic impact of the proposed regulation.

This bill would provide, for purposes of that provision, that noncompliance includes failing to complete an economic impact assessment, if one is required, as specified. The bill would specify additional criteria that would require the return of a proposed regulation, as specified.

(6) The act exempts the Public Utilities Commission, the State Water Resources Control Board, and the San Francisco Bay Conservation and Development Commission from specified provisions of the act.

This bill would revise the exemptions and require these entities to comply with specified requirements regarding the performance of the economic analysis.

(7) Existing law authorizes the Joint Legislative Budget Committee to appoint a Legislative Analyst, who has specified duties.

This bill would require the Legislative Analyst to prepare a benefit-cost analysis, as specified, of proposed legislation that he or she has identified as having a potential cost to the California economy of more than \$50,000,000 in one year, or that would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health or safety.

~~Existing law requires the Department of Food and Agriculture to issue and cause to be printed and distributed to county agricultural commissioners, and to other persons as specified, illustrative materials or statements which contain information which is best adapted to advance the interest, business, and development of agriculture in the state. Existing law also authorizes the department to broadcast portions of illustrative materials or statements to exhibit or display data and material that have been collected or prepared, and to incur expenses which are necessarily incidental to the exhibit or display of that data and material.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no-yes.~~
~~State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9145 is added to the Government Code,
- 2 to read:
- 3 9145. Commencing January 1, 2013, the Legislative Analyst
- 4 shall prepare a benefit-cost analysis of proposed legislation that

1 *he or she has identified as having a potential cost to the California*
2 *economy of more than fifty million dollars (\$50,000,000), or that*
3 *would adversely affect in a material way the economy, a sector of*
4 *the economy, productivity, competition, jobs, the environment, or*
5 *the public health or safety. The analysis shall explain how the*
6 *measures in the proposed legislation would be linked to expected*
7 *benefits, how the benefits and costs compare to a baseline of no*
8 *legislation, and in addition to direct benefits and costs, any*
9 *expected undesirable side effects or ancillary benefits of the*
10 *proposed legislation.*

11 *SEC. 2. Section 11342.547 is added to the Government Code,*
12 *to read:*

13 *11342.547. “Major regulation” means any proposed adoption,*
14 *amendment, or repeal of a regulation that will have an adverse*
15 *economic impact on California business enterprises and individuals*
16 *in an amount exceeding twenty-five million dollars (\$25,000,000)*
17 *in one year, as estimated by the agency in the assessment required*
18 *pursuant to Section 11346.3, or that the agency has determined*
19 *will adversely affect in a material way the economy, a sector of*
20 *the economy, productivity, competition, jobs, the environment, or*
21 *the public health or safety, pursuant to Section 11346.3.*

22 *SEC. 3. Section 11346.1 of the Government Code is amended*
23 *to read:*

24 *11346.1. (a) (1) The adoption, amendment, or repeal of an*
25 *emergency regulation is not subject to any provision of this article*
26 *or Article 6 (commencing with Section 11349), except this section*
27 *and Sections 11349.5 and 11349.6.*

28 *(2) At least five working days before submitting an emergency*
29 *regulation to the office, the adopting agency shall, except as*
30 *provided in paragraph (3), send a notice of the proposed emergency*
31 *action to every person who has filed a request for notice of*
32 *regulatory action with the agency. The notice shall include both*
33 *of the following:*

34 *(A) The specific language proposed to be adopted.*

35 *(B) The finding of emergency required by subdivision (b).*

36 *(3) An agency is not required to provide notice pursuant to*
37 *paragraph (2) if the emergency situation clearly poses such an*
38 *immediate, serious harm that delaying action to allow public*
39 *comment would be inconsistent with the public interest.*

1 (b) (1) Except as provided in subdivision (c), if a state agency
2 makes a finding that the adoption of a regulation or order of repeal
3 is necessary to address an emergency, the regulation or order of
4 repeal may be adopted as an emergency regulation or order of
5 repeal.

6 (2) Any finding of an emergency shall include a written
7 statement that contains the information required by paragraphs (2)
8 to (6), inclusive, of subdivision (a) of Section 11346.5, *a statement*
9 *as to whether the proposed regulation may have a significant,*
10 *statewide adverse economic impact directly affecting business,*
11 *including the ability of California businesses to compete with*
12 *businesses in other states*, and a description of the specific facts
13 demonstrating the existence of an emergency and the need for
14 immediate action, and demonstrating, by substantial evidence, the
15 need for the proposed regulation to effectuate the statute being
16 implemented, interpreted, or made specific and to address only
17 the demonstrated emergency. The finding of emergency shall also
18 identify each technical, theoretical, and empirical study, report, or
19 similar document, if any, upon which the agency relies. The
20 enactment of an urgency statute shall not, in and of itself, constitute
21 a need for immediate action.

22 A finding of emergency based only upon expediency,
23 convenience, best interest, general public need, or speculation,
24 shall not be adequate to demonstrate the existence of an emergency.
25 If the situation identified in the finding of emergency existed and
26 was known by the agency adopting the emergency regulation in
27 sufficient time to have been addressed through nonemergency
28 regulations adopted in accordance with the provisions of Article
29 5 (commencing with Section 11346), the finding of emergency
30 shall include facts explaining the failure to address the situation
31 through nonemergency regulations.

32 (3) The statement and the regulation or order of repeal shall be
33 filed immediately with the office.

34 (c) Notwithstanding any other provision of law, no emergency
35 regulation that is a building standard shall be filed, nor shall the
36 building standard be effective, unless the building standard is
37 submitted to the California Building Standards Commission, and
38 is approved and filed pursuant to Sections 18937 and 18938 of the
39 Health and Safety Code.

(d) The emergency regulation or order of repeal shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as a part of, the regulation or order of repeal.

(e) No regulation, amendment, or order of repeal initially adopted as an emergency regulatory action shall remain in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, either before adopting an emergency regulation or within the 180-day period. The adopting agency, prior to the expiration of the 180-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, amendment, or order of repeal, the rulemaking file, and a certification that Sections 11346.2 to 11347.3, inclusive, were complied with either before the emergency regulation was adopted or within the 180-day period.

(f) If an emergency amendment or order of repeal is filed and the adopting agency fails to comply with subdivision (e), the regulation as it existed prior to the emergency amendment or order of repeal shall thereupon become effective and after notice to the adopting agency by the office shall be reprinted in the California Code of Regulations.

(g) If a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e), this failure shall constitute a repeal of the regulation and after notice to the adopting agency by the office, shall be deleted.

(h) The office may approve not more than two readoptions, each for a period not to exceed 90 days, of an emergency regulation that is the same as or substantially equivalent to an emergency regulation previously adopted by that agency. Readoption shall be permitted only if the agency has made substantial progress and proceeded with diligence to comply with subdivision (e).

SEC. 4. Section 11346.2 of the Government Code, as amended by Section 1 of Chapter 398 of the Statutes of 2010, is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

1 (1) The agency shall draft the regulation in plain, straightforward
2 language, avoiding technical terms as much as possible, and using
3 a coherent and easily readable style. The agency shall draft the
4 regulation in plain English.

5 (2) The agency shall include a notation following the express
6 terms of each California Code of Regulations section, listing the
7 specific statutes or other provisions of law authorizing the adoption
8 of the regulation and listing the specific statutes or other provisions
9 of law being implemented, interpreted, or made specific by that
10 section in the California Code of Regulations.

11 (3) The agency shall use underline or italics to indicate additions
12 to, and strikeout to indicate deletions from, the California Code
13 of Regulations.

14 (b) An initial statement of reasons for proposing the adoption,
15 amendment, or repeal of a regulation. This statement of reasons
16 shall include, but not be limited to, all of the following:

17 (1) A statement of the specific purpose of each adoption,
18 amendment, or repeal, *the problem the agency intends to address*,
19 and the rationale for the determination by the agency that each
20 adoption, amendment, or repeal is reasonably necessary to carry
21 out the purpose *and address the problem* for which it is proposed.
22 *The statement shall also enumerate the anticipated benefits from*
23 *the regulatory action, including the benefits or goals described in*
24 *the authorizing statute. Where applicable, the statement shall*
25 *include a description of the failures in private markets or public*
26 *institutions that warrant the proposed regulation, in a manner*
27 *consistent with the guidelines published by the federal Office of*
28 *Management and Budget in OMB Circular No. A-94, as revised*
29 *October 29, 1992. Where the adoption or amendment of a*
30 *regulation would mandate the use of specific technologies or*
31 *equipment, a statement of the reasons why the agency believes*
32 *these mandates or prescriptive standards are required.*

33 (2) An identification of each technical, theoretical, and empirical
34 study, report, or similar document, if any, upon which the agency
35 relies in proposing the adoption, amendment, or repeal of a
36 regulation.

37 (3) (A) A description of reasonable alternatives to the regulation
38 and the agency's reasons for rejecting those alternatives.
39 *Alternatives to be considered should include, but not be limited*
40 *to, alternatives that are less costly and that would be equally*

1 *effective in achieving the purposes of the regulation in a manner*
2 *that ensures full compliance with the statutory mandate. An agency*
3 *that intends to select an alternative that is not cost effective shall*
4 *subject that alternative to a benefit-cost analysis. In the case of a*
5 *regulation that would mandate the use of specific technologies or*
6 *equipment or prescribe specific actions or procedures, the*
7 *imposition of performance standards shall be considered as an*
8 *alternative.*

9 (B) A description of reasonable alternatives to the regulation
10 that would lessen any adverse impact on small business and the
11 agency's reasons for rejecting those alternatives.

12 (C) Notwithstanding subparagraph (A) or (B), an agency is not
13 required to artificially construct alternatives; *or* describe
14 unreasonable alternatives; ~~or justify why it has not described~~
15 ~~alternatives.~~

16 (4) Facts, evidence, documents, testimony, or other evidence
17 on which the agency relies to support an initial determination that
18 the action will not have a significant adverse economic impact on
19 business.

20 (5) A department, board, or commission within the *California*
21 *Environmental Protection Agency*, the *Natural Resources Agency*,
22 or the Office of the State Fire Marshal shall describe its efforts, in
23 connection with a proposed rulemaking action, to avoid
24 unnecessary duplication or conflicts with federal regulations
25 contained in the Code of Federal Regulations addressing the same
26 issues. These agencies may adopt regulations different from federal
27 regulations contained in the Code of Federal Regulations
28 addressing the same issues upon a finding of one or more of the
29 following justifications:

30 (A) The differing state regulations are authorized by law.

31 (B) The cost of differing state regulations is justified by the
32 benefit to human health, public safety, public welfare, or the
33 environment.

34 (c) A state agency that adopts or amends a regulation mandated
35 by federal law or regulations, the provisions of which are identical
36 to a previously adopted or amended federal regulation, shall be
37 deemed to have complied with subdivision (b) if a statement to
38 the effect that a federally mandated regulation or amendment to a
39 regulation is being proposed, together with a citation to where an
40 explanation of the provisions of the regulation can be found, is

included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall be inoperative from January 1, 2012, until January 1, 2014.

SEC. 5. Section 11346.2 of the Government Code, as added by Section 2 of Chapter 398 of the Statutes of 2010, is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal, *the problem the agency intends to address*, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose *and address the problem* for which it is proposed. *The statement shall also enumerate the anticipated benefits from the regulatory action, including the benefits or goals described in the authorizing statute. Where applicable, the statement shall*

1 *include a description of the failures in private markets or public*
2 *institutions that warrant the proposed regulation, in a manner*
3 *consistent with the guidelines published by the federal Office of*
4 *Management and Budget in OMB Circular No. A-94, as revised*
5 *October 29, 1992.*

6 (2) An identification of each technical, theoretical, and empirical
7 study, report, or similar document, if any, upon which the agency
8 relies in proposing the adoption, amendment, or repeal of a
9 regulation.

10 (3) Where the adoption or amendment of a regulation would
11 mandate the use of specific technologies or equipment, a statement
12 of the reasons why the agency believes these mandates or
13 prescriptive standards are required.

14 (4) (A) A description of reasonable alternatives to the regulation
15 and the agency's reasons for rejecting those alternatives.
16 *Alternatives to be considered should include, but not be limited*
17 *to, alternatives that are less costly and that would be equally*
18 *effective in achieving the purposes of the regulation in a manner*
19 *that ensures full compliance with the statutory mandate. An agency*
20 *that intends to select an alternative that is not cost-effective must*
21 *subject that alternative to a benefit-cost analysis.*

22 (B) A description of any performance standard that was
23 considered as an alternative. In the case of a regulation that would
24 mandate the use of specific technologies or equipment or prescribe
25 specific actions or procedures, the imposition of performance
26 standards shall be considered as an alternative.

27 (C) A description of reasonable alternatives to the regulation
28 that would lessen any adverse impact on small business and the
29 agency's reasons for rejecting those alternatives.

30 (D) Notwithstanding subparagraph (A), (B), or (C), an agency
31 is not required to artificially construct alternatives; *or* describe
32 unreasonable alternatives, ~~or justify why it has not described~~
33 ~~alternatives.~~

34 (5) Facts, evidence, documents, testimony, or other evidence
35 on which the agency relies to support an initial determination that
36 the action will not have a significant adverse economic impact on
37 business.

38 (6) A department, board, or commission within the *California*
39 *Environmental Protection Agency, the Natural Resources Agency,*
40 *or the Office of the State Fire Marshal shall describe its efforts, in*

1 connection with a proposed rulemaking action, to avoid
2 unnecessary duplication or conflicts with federal regulations
3 contained in the Code of Federal Regulations addressing the same
4 issues. These agencies may adopt regulations different from federal
5 regulations contained in the Code of Federal Regulations
6 addressing the same issues upon a finding of one or more of the
7 following justifications:

8 (A) The differing state regulations are authorized by law.

9 (B) The cost of differing state regulations is justified by the
10 benefit to human health, public safety, public welfare, or the
11 environment.

12 (7) *The economic analysis required by Section 11346.3 and, as*
13 *appropriate, any review prepared by the University of California*
14 *pursuant to subdivision (d) of that section.*

15 (c) A state agency that adopts or amends a regulation mandated
16 by federal law or regulations, the provisions of which are identical
17 to a previously adopted or amended federal regulation, shall be
18 deemed to have complied with subdivision (b) if a statement to
19 the effect that a federally mandated regulation or amendment to a
20 regulation is being proposed, together with a citation to where an
21 explanation of the provisions of the regulation can be found, is
22 included in the notice of proposed adoption or amendment prepared
23 pursuant to Section 11346.5. However, the agency shall comply
24 fully with this chapter with respect to any provisions in the
25 regulation that the agency proposes to adopt or amend that are
26 different from the corresponding provisions of the federal
27 regulation.

28 (d) This section shall become operative on January 1, 2012.

29 (e) This section shall remain in effect only until January 1, 2014,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2014, deletes or extends that date.

32 *SEC. 6. Section 11346.3 of the Government Code is amended*
33 *to read:*

34 11346.3. (a) State agencies proposing to adopt, amend, or
35 repeal any administrative regulation shall assess the potential for
36 adverse economic impact on California business enterprises and
37 individuals, avoiding the imposition of unnecessary or unreasonable
38 regulations or reporting, recordkeeping, or compliance
39 requirements. For purposes of this subdivision, assessing the
40 potential for adverse economic impact shall require agencies, when

1 proposing to adopt, amend, or repeal a regulation, to adhere to the
2 following requirements, to the extent that these requirements do
3 not conflict with other state or federal laws:

4 (1) The proposed adoption, amendment, or repeal of a regulation
5 shall be based on adequate information concerning the need for,
6 and consequences of, proposed governmental action.

7 (2) The state agency, prior to submitting a proposal to adopt,
8 amend, or repeal a regulation to the office, shall consider the
9 proposal's impact on business, with consideration of industries
10 affected including the ability of California businesses to compete
11 with businesses in other states. For purposes of evaluating the
12 impact on the ability of California businesses to compete with
13 businesses in other states, an agency shall consider, but not be
14 limited to, information supplied by interested parties.

15 ~~It is not the intent of this section to impose additional criteria on~~
16 ~~agencies, above that which exists in current law, in assessing~~
17 ~~adverse economic impact on California business enterprises, but~~
18 ~~only to assure that the assessment is made early in the process of~~
19 ~~initiation and development of a proposed adoption, amendment,~~
20 ~~or repeal of a regulation.~~

21 (b) (1) All state agencies proposing to adopt, amend, or repeal
22 any administrative regulations shall assess ~~whether and to what~~
23 ~~extent it will affect the impacts of the regulations in the manner~~
24 ~~prescribed by the Department of Finance pursuant to Section~~
25 ~~11346.31. The standardized economic assessment shall consider~~
26 ~~all of the following:~~

27 (A) The creation or elimination of jobs within the State of
28 California.

29 (B) The creation of new businesses or the elimination of existing
30 businesses within the State of California.

31 (C) The expansion of businesses currently doing business within
32 the State of California.

33 (D) *The benefits of the regulations including, but not limited*
34 *to, benefits to the health and welfare of California residents and*
35 *benefits to the state's environment.*

36 (E) *The extent to which the regulation will achieve the*
37 *regulatory or statutory objective intended.*

38 (F) *Whether there is a less burdensome regulatory alternative*
39 *that will effectively achieve the same benefits.*

1 (2) This subdivision does not apply to the University of
2 California, the Hastings College of the Law, or the Fair Political
3 Practices Commission.

4 (3) Information required from state agencies for the purpose of
5 completing the assessment may come from existing state
6 publications.

7 (c) No administrative regulation adopted on or after January 1,
8 1993, that requires a report shall apply to businesses, unless the
9 state agency adopting the regulation makes a finding that it is
10 necessary for the health, safety, or welfare of the people of the
11 state that the regulation apply to businesses.

12 (d) *The agency shall request the University of California to*
13 *review the economic assessment prepared pursuant to paragraph*
14 *(1) of subdivision (b), and include any review by the university*
15 *with that assessment.*

16 (e) *Commencing January 1, 2014, the provisions of this section*
17 *shall apply only to a proposed regulation that the agency concludes*
18 *may have an economic impact of more than fifty million dollars*
19 *(\$50,000,000).*

20 SEC. 7. *Section 11346.31 is added to the Government Code,*
21 *to read:*

22 11346.31. (a) *On or before June 30, 2013, the Department of*
23 *Finance shall adopt regulations in compliance with this chapter*
24 *for conducting the standardized economic assessment required by*
25 *Section 11346.3. The regulations, at a minimum, shall assist the*
26 *agencies in specifying the methodologies for considering the*
27 *following factors:*

28 (1) *An analysis of the benefits and costs of the proposed*
29 *regulation, expressed in monetary terms to the extent feasible and*
30 *appropriate.*

31 (2) *The creation or elimination of jobs within the State of*
32 *California.*

33 (3) *The creation of new businesses or the elimination of existing*
34 *businesses within the State of California.*

35 (4) *The expansion of businesses currently doing business within*
36 *the State of California.*

37 (5) *The benefits of the regulations including, but not limited to,*
38 *benefits to the health and welfare of California citizens and benefits*
39 *to the state's environment.*

1 (6) *An analysis of the effects of the regulations on sales tax,*
2 *income tax, and corporation tax revenue to the General Fund, and*
3 *fee revenues to special funds.*

4 (7) *The extent to which the regulation will achieve the regulatory*
5 *or statutory objective intended.*

6 (8) *Whether there is a less burdensome regulatory alternative*
7 *that will effectively achieve the same benefits.*

8 (b) *In addition to adopting the regulations in compliance with*
9 *this chapter, the department shall publish the adopted guidelines*
10 *in the State Administrative Manual on or before January 1, 2014.*

11 SEC. 8. *Section 11346.5 of the Government Code is amended*
12 *to read:*

13 11346.5. (a) The notice of proposed adoption, amendment, or
14 repeal of a regulation shall include the following:

15 (1) A statement of the time, place, and nature of proceedings
16 for adoption, amendment, or repeal of the regulation.

17 (2) Reference to the authority under which the regulation is
18 proposed and a reference to the particular code sections or other
19 provisions of law that are being implemented, interpreted, or made
20 specific.

21 (3) An informative digest drafted in plain English in a format
22 similar to the Legislative Counsel's digest on legislative bills. The
23 informative digest shall include the following:

24 (A) A concise and clear summary of existing laws and
25 regulations, if any, related directly to the proposed action and of
26 the effect of the proposed action.

27 (B) If the proposed action differs substantially from an existing
28 comparable federal regulation or statute, a brief description of the
29 significant differences and the full citation of the federal regulations
30 or statutes.

31 (C) A policy statement overview explaining the broad objectives
32 of the regulation and, ~~if appropriate, the specific objectives~~ *the*
33 *specific benefits anticipated by the regulation.*

34 (D) *An evaluation of whether the proposed regulation is*
35 *inconsistent or incompatible with existing regulations.*

36 (4) Any other matters as are prescribed by statute applicable to
37 the specific state agency or to any specific regulation or class of
38 regulations.

39 (5) A determination as to whether the regulation imposes a
40 mandate on local agencies or school districts and, if so, whether

1 the mandate requires state reimbursement pursuant to Part 7
2 (commencing with Section 17500) of Division 4.

3 (6) An estimate, prepared in accordance with instructions
4 adopted by the Department of Finance, of the cost or savings to
5 any state agency, the cost to any local agency or school district
6 that is required to be reimbursed under Part 7 (commencing with
7 Section 17500) of Division 4, other nondiscretionary cost or
8 savings imposed on local agencies, and the cost or savings in
9 federal funding to the state.

10 For purposes of this paragraph, “cost or savings” means
11 additional costs or savings, both direct and indirect, that a public
12 agency necessarily incurs in reasonable compliance with
13 regulations.

14 (7) If a state agency, in proposing to adopt, amend, or repeal
15 any administrative regulation, makes an initial determination that
16 the action may have a significant, statewide adverse economic
17 impact directly affecting business, including the ability of
18 California businesses to compete with businesses in other states,
19 it shall include the following information in the notice of proposed
20 action:

21 (A) Identification of the types of businesses that would be
22 affected.

23 (B) A description of the projected reporting, recordkeeping, and
24 other compliance requirements that would result from the proposed
25 action.

26 (C) The following statement: “The (name of agency) has made
27 an initial determination that the (adoption/amendment/repeal) of
28 this regulation may have a significant, statewide adverse economic
29 impact directly affecting business, including the ability of
30 California businesses to compete with businesses in other states.
31 The (name of agency) (has/has not) considered proposed
32 alternatives that would lessen any adverse economic impact on
33 business and invites you to submit proposals. Submissions may
34 include the following considerations:

35 (i) The establishment of differing compliance or reporting
36 requirements or timetables that take into account the resources
37 available to businesses.

38 (ii) Consolidation or simplification of compliance and reporting
39 requirements for businesses.

1 (iii) The use of performance standards rather than prescriptive
2 standards.

3 (iv) Exemption or partial exemption from the regulatory
4 requirements for businesses.”

5 (8) If a state agency, in adopting, amending, or repealing any
6 administrative regulation, makes an initial determination that the
7 action will not have a significant, statewide adverse economic
8 impact directly affecting business, including the ability of
9 California businesses to compete with businesses in other states,
10 it shall make a declaration to that effect in the notice of proposed
11 action. In making this declaration, the agency shall provide in the
12 record facts, evidence, documents, testimony, or other evidence
13 upon which the agency relies to support its initial determination.

14 ~~An agency’s initial determination and declaration that a proposed~~
15 ~~adoption, amendment, or repeal of a regulation may have or will~~
16 ~~not have a significant, adverse impact on businesses, including the~~
17 ~~ability of California businesses to compete with businesses in other~~
18 ~~states, shall not be grounds for the office to refuse to publish the~~
19 ~~notice of proposed action.~~

20 (9) A description of all cost impacts, known to the agency at
21 the time the notice of proposed action is submitted to the office,
22 that a representative private person or business would necessarily
23 incur in reasonable compliance with the proposed action.

24 ~~If no cost impacts are known to the agency, it shall state the~~
25 ~~following:~~

26 ~~“The agency is not aware of any cost impacts that a~~
27 ~~representative private person or business would necessarily incur~~
28 ~~in reasonable compliance with the proposed action.”~~

29 (10) A statement of the results of the *standardized economic*
30 ~~assessment required~~ *described* by subdivision (b) of Section
31 11346.3, *if the assessment is required pursuant to Section 11346.3.*

32 (11) The finding prescribed by subdivision (c) of Section
33 11346.3, if required.

34 (12) A statement that the action would have a significant effect
35 on housing costs, if a state agency, in adopting, amending, or
36 repealing any administrative regulation, makes an initial
37 determination that the action would have that effect. In addition,
38 the agency officer designated in paragraph (14), shall make
39 available to the public, upon request, the agency’s evaluation, if

1 any, of the effect of the proposed regulatory action on housing
2 costs.

3 (13) A statement that the adopting agency must determine that
4 no reasonable alternative considered by the agency or that has
5 otherwise been identified and brought to the attention of the agency
6 would be more effective in carrying out the purpose for which the
7 action is proposed or would be as effective and less burdensome
8 to affected private persons than the proposed action.

9 (14) The name and telephone number of the agency
10 representative and designated backup contact person to whom
11 inquiries concerning the proposed administrative action may be
12 directed.

13 (15) The date by which comments submitted in writing must
14 be received to present statements, arguments, or contentions in
15 writing relating to the proposed action in order for them to be
16 considered by the state agency before it adopts, amends, or repeals
17 a regulation.

18 (16) Reference to the fact that the agency proposing the action
19 has prepared a statement of the reasons for the proposed action,
20 has available all the information upon which its proposal is based,
21 and has available the express terms of the proposed action, pursuant
22 to subdivision (b).

23 (17) A statement that if a public hearing is not scheduled, any
24 interested person or his or her duly authorized representative may
25 request, no later than 15 days prior to the close of the written
26 comment period, a public hearing pursuant to Section 11346.8.

27 (18) A statement indicating that the full text of a regulation
28 changed pursuant to Section 11346.8 will be available for at least
29 15 days prior to the date on which the agency adopts, amends, or
30 repeals the resulting regulation.

31 (19) A statement explaining how to obtain a copy of the final
32 statement of reasons once it has been prepared pursuant to
33 subdivision (a) of Section 11346.9.

34 (20) If the agency maintains an Internet Web site or other similar
35 forum for the electronic publication or distribution of written
36 material, a statement explaining how materials published or
37 distributed through that forum can be accessed.

38 (b) The agency representative designated in paragraph (14) of
39 subdivision (a) shall make available to the public upon request the
40 express terms of the proposed action. The representative shall also

1 make available to the public upon request the location of public
2 records, including reports, documentation, and other materials,
3 related to the proposed action. If the representative receives an
4 inquiry regarding the proposed action that the representative cannot
5 answer, the representative shall refer the inquiry to another person
6 in the agency for a prompt response.

7 (c) This section shall not be construed in any manner that results
8 in the invalidation of a regulation because of the alleged inadequacy
9 of the notice content or the summary or cost estimates, or the
10 alleged inadequacy or inaccuracy of the housing cost estimates, if
11 there has been substantial compliance with those requirements.

12 *SEC. 9. Section 11346.9 of the Government Code is amended*
13 *to read:*

14 11346.9. Every agency subject to this chapter shall do the
15 following:

16 (a) Prepare and submit to the office with the adopted regulation
17 a final statement of reasons that shall include all of the following:

18 (1) An update of the information contained in the initial
19 statement of reasons. If the update identifies any data or any
20 technical, theoretical or empirical study, report, or similar
21 document on which the agency is relying in proposing the adoption,
22 amendment, or repeal of a regulation that was not identified in the
23 initial statement of reasons, or which was otherwise not identified
24 or made available for public review prior to the close of the public
25 comment period, the agency shall comply with Section 11347.1.

26 (2) A determination as to whether adoption, amendment, or
27 repeal of the regulation imposes a mandate on local agencies or
28 school districts. If the determination is that adoption, amendment,
29 or repeal of the regulation would impose a local mandate, the
30 agency shall state whether the mandate is reimbursable pursuant
31 to Part 7 (commencing with Section 17500) of Division 4. If the
32 agency finds that the mandate is not reimbursable, it shall state the
33 reasons for that finding.

34 (3) A summary of each objection or recommendation made
35 regarding the specific adoption, amendment, or repeal proposed,
36 together with an explanation of how the proposed action has been
37 changed to accommodate each objection or recommendation, or
38 the reasons for making no change. This requirement applies only
39 to objections or recommendations specifically directed at the
40 agency's proposed action or to the procedures followed by the

1 agency in proposing or adopting the action. The agency may
2 aggregate and summarize repetitive or irrelevant comments as a
3 group, and may respond to repetitive comments or summarily
4 dismiss irrelevant comments as a group. For the purposes of this
5 paragraph, a comment is “irrelevant” if it is not specifically directed
6 at the agency’s proposed action or to the procedures followed by
7 the agency in proposing or adopting the action.

8 (4) A determination with supporting information that no
9 alternative considered by the agency would be more effective in
10 carrying out the purpose for which the regulation is proposed or
11 would be as effective and less burdensome to affected private
12 persons than the adopted regulation. *The determination shall be*
13 *based, in part, upon the standardized economic assessment of the*
14 *proposed regulation, if an assessment is required pursuant to*
15 *Section 11346.3.*

16 (5) An explanation setting forth the reasons for rejecting any
17 proposed alternatives that would lessen the adverse economic
18 impact on small businesses. *The agency shall include, for purposes*
19 *of supporting information, the standardized economic assessment*
20 *of the proposed regulation, if an assessment is required pursuant*
21 *to Section 11346.3.*

22 (b) Prepare and submit to the office with the adopted regulation
23 an updated informative digest containing a clear and concise
24 summary of the immediately preceding laws and regulations, if
25 any, relating directly to the adopted, amended, or repealed
26 regulation and the effect of the adopted, amended, or repealed
27 regulation. The informative digest shall be drafted in a format
28 similar to the Legislative Counsel’s Digest on legislative bills.

29 (c) A state agency that adopts or amends a regulation mandated
30 by federal law or regulations, the provisions of which are identical
31 to a previously adopted or amended federal regulation, shall be
32 deemed to have complied with this section if a statement to the
33 effect that a federally mandated regulation or amendment to a
34 regulation is being proposed, together with a citation to where an
35 explanation of the provisions of the regulation can be found, is
36 included in the notice of proposed adoption or amendment prepared
37 pursuant to Section 11346.5. However, the agency shall comply
38 fully with this chapter with respect to any provisions in the
39 regulation which the agency proposes to adopt or amend that are

1 different from the corresponding provisions of the federal
2 regulation.

3 (d) If an agency determines that a requirement of this section
4 can be satisfied by reference to an agency statement made pursuant
5 to Sections 11346.2 to 11346.5, inclusive, the agency may satisfy
6 the requirement by incorporating the relevant statement by
7 reference.

8 *SEC. 10. Section 11349.1 of the Government Code is amended*
9 *to read:*

10 11349.1. (a) The office shall review all regulations adopted,
11 amended, or repealed pursuant to the procedure specified in Article
12 5 (commencing with Section 11346) and submitted to it for
13 publication in the California Code of Regulations Supplement and
14 for transmittal to the Secretary of State and make determinations
15 using all of the following standards:

- 16 (1) Necessity.
- 17 (2) Authority.
- 18 (3) Clarity.
- 19 (4) Consistency.
- 20 (5) Reference.
- 21 (6) Nonduplication.

22 In reviewing regulations pursuant to this section, the office shall
23 restrict its review to the regulation and the record of the rulemaking
24 proceeding. The office shall approve the regulation or order of
25 repeal if it complies with the standards set forth in this section and
26 with this chapter.

27 (b) In reviewing proposed regulations for the criteria in
28 subdivision (a), the office may consider the clarity of the proposed
29 regulation in the context of related regulations already in existence.

30 (c) The office shall adopt regulations governing the procedures
31 it uses in reviewing regulations submitted to it. The regulations
32 shall provide for an orderly review and shall specify the methods,
33 standards, presumptions, and principles the office uses, and the
34 limitations it observes, in reviewing regulations to establish
35 compliance with the standards specified in subdivision (a). The
36 regulations adopted by the office shall ensure that it does not
37 substitute its judgment for that of the rulemaking agency as
38 expressed in the substantive content of adopted regulations.

39 (d) The office shall return any regulation subject to this chapter
40 to the adopting agency if any of the following occur:

1 (1) The adopting agency has not prepared the estimate required
2 by paragraph (6) of subdivision (a) of Section 11346.5 and has not
3 included the data used and calculations made and the summary
4 report of the estimate in the file of the rulemaking.

5 (2) The agency has not complied with Section 11346.3.
6 *Noncompliance shall include a failure by the agency to complete*
7 *the standardized economic assessment, if required by Section*
8 *11346.3. Noncompliance shall be determined by the office, in*
9 *conjunction with the Department of Finance, after a review of the*
10 *standardized economic assessment and a determination as to*
11 *whether that assessment substantially complies with the guidelines*
12 *established by Section 11346.31, and the determination of*
13 *substantial compliance shall not be based on compliance with the*
14 *substantive law that the regulation implements, interprets, or makes*
15 *specific.*

16 (3) The adopting agency has prepared the estimate required by
17 paragraph (6) of subdivision (a) of Section 11346.5, the estimate
18 indicates that the regulation will result in a cost to local agencies
19 or school districts that is required to be reimbursed under Part 7
20 (commencing with Section 17500) of Division 4, and the adopting
21 agency fails to do any of the following:

22 (A) Cite an item in the Budget Act for the fiscal year in which
23 the regulation will go into effect as the source from which the
24 Controller may pay the claims of local agencies or school districts.

25 (B) Cite an accompanying bill appropriating funds as the source
26 from which the Controller may pay the claims of local agencies
27 or school districts.

28 (C) Attach a letter or other documentation from the Department
29 of Finance which states that the Department of Finance has
30 approved a request by the agency that funds be included in the
31 Budget Bill for the next following fiscal year to reimburse local
32 agencies or school districts for the costs mandated by the
33 regulation.

34 (D) Attach a letter or other documentation from the Department
35 of Finance which states that the Department of Finance has
36 authorized the augmentation of the amount available for
37 expenditure under the agency's appropriation in the Budget Act
38 which is for reimbursement pursuant to Part 7 (commencing with
39 Section 17500) of Division 4 to local agencies or school districts
40 from the unencumbered balances of other appropriations in the

1 Budget Act and that this augmentation is sufficient to reimburse
2 local agencies or school districts for their costs mandated by the
3 regulation.

4 *(4) The proposed regulation conflicts with an existing regulation*
5 *and the agency has not identified the manner in which the conflict*
6 *may be resolved.*

7 *(5) The agency did not make the alternatives determination in*
8 *the manner required by paragraph (4) of subdivision (a) of Section*
9 *11346.9.*

10 (e) The office shall notify the Department of Finance of all
11 regulations returned pursuant to subdivision (d).

12 (f) The office shall return a rulemaking file to the submitting
13 agency if the file does not comply with subdivisions (a) and (b)
14 of Section 11347.3. Within three state working days of the receipt
15 of a rulemaking file, the office shall notify the submitting agency
16 of any deficiency identified. If no notice of deficiency is mailed
17 to the adopting agency within that time, a rulemaking file shall be
18 deemed submitted as of the date of its original receipt by the office.
19 A rulemaking file shall not be deemed submitted until each
20 deficiency identified under this subdivision has been corrected.

21 This subdivision shall not limit the review of regulations under
22 this article, including, but not limited to, the conformity of
23 rulemaking files to subdivisions (a) and (b) of Section 11347.3.

24 *SEC. 11. Section 11349.75 is added to the Government Code,*
25 *to read:*

26 *11349.75. (a) Any interested person may petition a state*
27 *agency requesting an economic analysis, which the agency shall*
28 *conduct in the manner described in Section 11346.3, of an existing*
29 *regulation and of the identified reasonable alternatives to that*
30 *existing regulation.*

31 *(b) A state agency shall perform the requested economic analysis*
32 *requested by this section unless it has completed an economic*
33 *analysis, either for the initial adoption of the regulation or*
34 *pursuant to this section, within a period of five years prior to the*
35 *submission of the petition.*

36 *SEC. 12. Section 11349.10 is added to the Government Code,*
37 *to read:*

38 *11349.10. For major regulations adopted or amended on or*
39 *after July 1, 2012, the agency shall review, assess, and report to*
40 *the office on the cost and efficacy of the regulation beginning five*

1 *years after its adoption, and every five years thereafter. Regulatory*
2 *efficacy shall be the extent to which the regulatory and enforcement*
3 *activities of the department have accomplished the goals of the*
4 *authorizing statute.*

5 *SEC. 13. Section 11351 of the Government Code is amended*
6 *to read:*

7 11351. (a) Except as provided in ~~subdivision~~ subdivisions (b)
8 and (d), Article 5 (commencing with Section 11346), Article 6
9 (commencing with Section 11349), Article 7 (commencing with
10 Section 11349.7), and Article 8 (commencing with Section 11350)
11 shall not apply to the Public Utilities Commission or the Workers'
12 Compensation Appeals Board, and Article 3 (commencing with
13 Section 11343) and Article 4 (commencing with Section 11344)
14 shall apply only to the rules of procedure of these state agencies.

15 (b) The Public Utilities Commission and the Workers'
16 Compensation Appeals Board shall comply with paragraph (5) of
17 subdivision (a) of Section 11346.4 with respect to regulations that
18 are required to be filed with the Secretary of State pursuant to
19 Section 11343.

20 (c) Article 8 (commencing with Section 11350) shall not apply
21 to the Division of Workers' Compensation.

22 (d) *The Public Utilities Commission shall comply with*
23 *paragraphs (3) and (4) of subdivision (a) of Section 11346.3 and*
24 *with paragraph (13) of subdivision (a) of Section 11346.5.*

25 *SEC. 14. Section 11352 of the Government Code is amended*
26 *to read:*

27 11352. The following actions are not subject to this chapter:

28 (a) The issuance, denial, or waiver of any water quality
29 certification as authorized under Section 13160 of the Water Code.

30 (b) The issuance, denial, or revocation of waste discharge
31 requirements and permits pursuant to Sections 13263 and 13377
32 of the Water Code and waivers issued pursuant to Section 13269
33 of the Water Code. *However, the exception in this subdivision*
34 *shall not apply to any issuance, denial, or revocation of waste*
35 *discharge requirements and permits issued pursuant to Sections*
36 *13263 and 13377 of the Water Code and waivers issued pursuant*
37 *to Section 13269 of the Water Code, as to actions taken by the*
38 *State Water Resources Control Board if the waste discharge*
39 *requirement, permit, or waiver is applicable statewide or in an*
40 *entire region, and as to actions taken by a regional water quality*

1 *control board if the waste discharge requirement, permit, or waiver*
2 *is applicable throughout the region.*

3 (c) The development, issuance, and use of the guidance
4 document pursuant to Section 13383.7 of the Water Code.

5 *SEC. 15. Section 11353 of the Government Code is repealed.*

6 ~~11353. (a) Except as provided in subdivision (b), this chapter~~
7 ~~does not apply to the adoption or revision of state policy for water~~
8 ~~quality control and the adoption or revision of water quality control~~
9 ~~plans and guidelines pursuant to Division 7 (commencing with~~
10 ~~Section 13000) of the Water Code.~~

11 ~~(b) (1) Any policy, plan, or guideline, or any revision thereof,~~
12 ~~that the State Water Resources Control Board has adopted or that~~
13 ~~a court determines is subject to this part, after June 1, 1992, shall~~
14 ~~be submitted to the office.~~

15 ~~(2) The State Water Resources Control Board shall include in~~
16 ~~its submittal to the office all of the following:~~

17 ~~(A) A clear and concise summary of any regulatory provisions~~
18 ~~adopted or approved as part of that action, for publication in the~~
19 ~~California Code of Regulations.~~

20 ~~(B) The administrative record for the proceeding. Proposed~~
21 ~~additions to a policy, plan, or guideline shall be indicated by~~
22 ~~underlined text and proposed deletions shall be indicated by~~
23 ~~strike-through text in documents submitted as part of the~~
24 ~~administrative record for the proceeding.~~

25 ~~(C) A summary of the necessity for the regulatory provision.~~

26 ~~(D) A certification by the chief legal officer of the State Water~~
27 ~~Resources Control Board that the action was taken in compliance~~
28 ~~with all applicable procedural requirements of Division 7~~
29 ~~(commencing with Section 13000) of the Water Code.~~

30 ~~(3) Paragraph (2) does not limit the authority of the office to~~
31 ~~review any regulatory provision which is part of the policy, plan,~~
32 ~~or guideline submitted by the State Water Resources Control Board.~~

33 ~~(4) The office shall review the regulatory provisions to~~
34 ~~determine compliance with the standards of necessity, authority,~~
35 ~~clarity, consistency, reference, and nonduplication set forth in~~
36 ~~subdivision (a) of Section 11349.1. The office shall also review~~
37 ~~the responses to public comments prepared by the State Water~~
38 ~~Resources Control Board or the appropriate regional water quality~~
39 ~~control board to determine compliance with the public participation~~
40 ~~requirements of the Federal Water Pollution Control Act (33 U.S.C.~~

1 ~~Sec. 1251 et seq.). The office shall restrict its review to the~~
2 ~~regulatory provisions and the administrative record of the~~
3 ~~proceeding. Sections 11349.3, 11349.4, 11349.5, and 11350.3 shall~~
4 ~~apply to the review by the office to the extent that those sections~~
5 ~~are consistent with this section.~~

6 ~~(5) The policy, plan, guideline, or revision shall not become~~
7 ~~effective unless and until the regulatory provisions are approved~~
8 ~~by the office in accordance with subdivision (a) of Section 11349.3.~~

9 ~~(6) Upon approval of the regulatory provisions, the office shall~~
10 ~~transmit to the Secretary of State for filing the clear and concise~~
11 ~~summary of the regulatory provisions submitted by the State Water~~
12 ~~Resources Control Board.~~

13 ~~(7) Any proceedings before the State Water Resources Control~~
14 ~~Board or a California regional water quality control board to take~~
15 ~~any action subject to this subdivision shall be conducted in~~
16 ~~accordance with the procedural requirements of Division 7~~
17 ~~(commencing with Section 13000) of the Water Code, together~~
18 ~~with any applicable requirements of the Federal Water Pollution~~
19 ~~Control Act (33 U.S.C. Sec. 1251 et seq.), and the requirements~~
20 ~~of this chapter, other than the requirement for review by the office~~
21 ~~in accordance with this subdivision, shall not apply.~~

22 ~~(8) This subdivision shall not provide a basis for review by the~~
23 ~~office under this subdivision or Article 6 (commencing with~~
24 ~~Section 11349) of any such policy, plan, or guideline adopted or~~
25 ~~revised prior to June 1, 1992.~~

26 ~~(c) Subdivision (a) does not apply to a provision of any policy,~~
27 ~~plan, guideline, or revision, as applied to any person who, as of~~
28 ~~June 1, 1992, was a party to a civil action challenging that provision~~
29 ~~on the grounds that it has not been adopted as a regulation pursuant~~
30 ~~to this chapter.~~

31 ~~(d) Copies of the policies, plans, and guidelines to which~~
32 ~~subdivision (a) applies shall be maintained at central locations for~~
33 ~~inspection by the public. The State Water Resources Control Board~~
34 ~~shall maintain, at its headquarters in Sacramento, a current copy~~
35 ~~of each policy, plan, or guideline in effect. Each regional water~~
36 ~~quality control board shall maintain at its headquarters a current~~
37 ~~copy of each policy, plan, or guideline in effect in its respective~~
38 ~~region. Any revision of a policy, plan, or guideline shall be made~~
39 ~~available for inspection by the public within 30 days of its effective~~
40 ~~date.~~

1 *SEC. 16. Section 11354.1 of the Government Code is amended*
2 *to read:*

3 11354.1. (a) For purposes of this section, “commission” means
4 the San Francisco Bay Conservation and Development
5 Commission.

6 (b) This chapter does not apply to any policy, plan, or guideline
7 adopted by the commission prior to January 1, 1996, pursuant to
8 Chapter 5 (commencing with Section 66650) of Title 7.2 of this
9 code or Division 19 (commencing with Section 29000) of the
10 Public Resources Code.

11 (c) The issuance or denial by the commission of any permit
12 pursuant to subdivision (a) of Section 66632, and the issuance or
13 denial by, or appeal to, the commission of any permit pursuant to
14 Chapter 6 (commencing with Section 29500) of Division 19 of the
15 Public Resources Code, are not subject to this chapter.

16 (d) (1) Any amendments or other changes to the San Francisco
17 Bay Plan or to a special area plan pursuant to Chapter 5
18 (commencing with Section 66650) of Title 7.2, adopted by the
19 commission on or after January 1, 1996, and any amendments or
20 other changes to the Suisun Marsh Protection Plan, as defined in
21 Section 29113 of the Public Resources Code, or in the Suisun
22 Marsh local protection program, as defined in Section 29111 of
23 the Public Resources Code, adopted by the commission on and
24 after January 1, 1996, shall be submitted to the office but are not
25 subject to this chapter except as provided in this subdivision.

26 (2) The commission shall include in its submittal to the office
27 pursuant to paragraph (1) both of the following documents:

28 (A) A clear and concise summary of any regulatory provision
29 adopted or approved by the commission as part of the proposed
30 change for publication in the California Code of Regulations.

31 (B) The administrative record for the proceeding, and a list of
32 the documents relied upon in making the change. Proposed
33 additions to the plans shall be indicated by underlined text, and
34 proposed deletions shall be indicated by strike-through text in
35 documents submitted as part of the administrative record for the
36 proceeding.

37 (3) The office shall review the regulatory provisions to
38 determine compliance with the standards of necessity, authority,
39 clarity, consistency, reference, and nonduplication set forth in
40 subdivision (a) of Section 11349.1. The office shall also review

the responses to public comments prepared by the commission to determine compliance with the public participation requirements of Sections 11000 to 11007, inclusive, of Title 14 of the California Code of Regulations, and to ensure that the commission considers all relevant matters presented to it before adopting, amending, or repealing any regulatory provision, and that the commission explains the reasons for not modifying a proposed plan change to accommodate an objection or recommendation. The office shall restrict its review to the regulatory provisions and the administrative record of the proceeding. Sections 11349.3, 11349.4, 11349.5, and 11350.3 shall apply to the review by the office to the extent that those sections are consistent with this section.

(4) In reviewing proposed changes to the commission's plans for the criteria specified in subdivision (a) of Section 11349.1, the office shall consider the clarity of the proposed plan change in the context of the commission's existing plans.

(5) The proposed plan or program change subject to this subdivision shall not become effective unless and until the regulatory provisions are approved by the office in accordance with subdivision (a) of Section 11349.3.

(6) Upon approval of the regulatory provisions, the office shall transmit to the Secretary of State for filing the clear and concise summary of the regulatory provisions submitted by the commission.

(7) Notwithstanding paragraph (1), any amendments or other changes to the San Francisco Bay Plan, the Suisun Marsh Protection Plan, or the Suisun Marsh local protection program, adopted by the commission, shall be subject to the requirements of subdivisions (b), (d), and (e) of Section 11346.3 and paragraph (13) of subdivision (a) of Section 11346.5.

(e) Except as provided in subdivisions (b), (c), and (d), the adoption of any regulation by the commission shall be subject to this chapter in all respects.

SEC. 17. Section 57005 of the Health and Safety Code is amended to read:

57005. (a) Commencing January 1, 1994, each board, department, and office within the agency, before adopting any major regulation, shall evaluate the alternatives to the requirements of the proposed regulation that are submitted to the board, department, or office pursuant to paragraph (7) of subdivision (a)

1 of Section 11346.5 of the Government Code, *respond to the*
2 *comments pursuant to paragraph (13) of subdivision (a) of Section*
3 *11346.5 of the Government Code*, and consider whether there is a
4 less costly alternative or combination of alternatives which would
5 be equally as effective in achieving increments of environmental
6 protection in a manner that ensures full compliance with statutory
7 mandates within the same amount of time as the proposed
8 regulatory requirements.

9 (b) For purposes of this section, “major regulation” means any
10 regulation that will have an economic impact on the state’s business
11 enterprises in an amount exceeding ~~ten million dollars~~
12 ~~(\$10,000,000)~~ *fifty million dollars (\$50,000,000) in one year*, as
13 estimated by the board, department, or office within the agency
14 proposing to adopt the regulation in the assessment required by
15 subdivision (a) of Section 11346.3 of the Government Code.

16 (c) On or before December 31, 1994, after consulting with the
17 Secretary of Trade and Commerce, the director or executive officer
18 of each board, department, and office within the agency, and after
19 receiving public comment, the secretary shall adopt guidelines to
20 be followed by the boards, departments, and offices within the
21 agency concerning the methods and procedures to be used in
22 conducting the evaluation required by this section.

23 ~~SECTION 1. Section 434 of the Food and Agricultural Code~~
24 ~~is amended to read:~~

25 ~~434. The department shall issue and cause to be printed and~~
26 ~~distributed to the commissioners, and to other persons as it may~~
27 ~~deem proper, bulletins, charts, photographs or other illustrative~~
28 ~~material or statements which contain all the information which is~~
29 ~~best adapted to advance the interest, business, and development~~
30 ~~of agriculture in the state. The department may broadcast those~~
31 ~~portions of the illustrative material or statements that are adapted~~
32 ~~to give effect to this code. It may exhibit or display data and~~
33 ~~material that have been collected or prepared, and may incur~~
34 ~~expenses which are necessarily incidental to the exhibit or display~~
35 ~~of that data and material.~~